

translated into dollars at the rate of exchange for the date of the refund.

(2) *Foreign taxes deemed paid on an actual distribution.* Foreign taxes deemed paid by a taxpayer under section 902 with respect to an actual distribution and refunds of such taxes shall be translated into dollars at the rate of exchange for the date of the distribution of the earnings to which the taxes relate.

(c) *Foreign tax redetermination.* The term "foreign tax redetermination" means a foreign tax redetermination as defined in § 1.905-3T(c).

(d) *Redetermination of United States tax liability—(1) In general.* A redetermination of United States tax liability is required with respect to any foreign tax redetermination subject to this section and shall be subject to the requirements of § 1.905-4T(b). The content of the notification required by this paragraph (d) shall be the same as provided in § 1.905-4(b)(3), except as modified by paragraphs (d) (2), (3), and (4) of this section.

(2) *Refunds.* In the case of any refund of foreign tax, the rate of exchange on the date of the refund shall be included in the information required by § 1.905-4T(b)(3)(ii)(A).

(3) *Foreign taxes deemed paid under section 902.* In the case of foreign taxes paid or accrued by a foreign corporation that are deemed paid or accrued under section 902 with respect to an actual distribution and with respect to which there was a redetermination of foreign tax, the United States taxpayer's information shall include, in lieu of the information required by paragraph (b)(3)(iii), the following: the foreign corporation's name and identifying number (if any); the date on which the foreign taxes were accrued and the dates on which the foreign taxes were paid; the amounts of the foreign taxes accrued or paid in foreign currency on each such date; the dates on which any foreign taxes were refunded and the amounts thereof; the dates and amounts of any dividend distributions made out of earnings and profits for the affected year or years; the rate of exchange on the date of any such distribution; and the amount of earnings and profits from which such

dividends were paid for the affected year or years.

(4) *Foreign taxes deemed paid under section 960.* In the case of foreign taxes paid under section 960 (or under section 902 in the case of an amount treated as a dividend under section 1248), the rate of exchange determined under § 1.964-1 for translating accrued foreign taxes shall be included in the information required by § 1.905-4T(b)(3)(iii) in lieu of the exchange rate for the date of the accrual.

(e) *Exception for de minimis currency fluctuations.* A United States taxpayer need not notify the Service of a foreign tax redetermination that results solely from a currency fluctuation if the amount of such redetermination with respect to the foreign country is less than the lesser of ten thousand dollars or two percent of the total dollar amount of the foreign tax, prior to the adjustment, initially accrued with respect to that foreign country for the taxable year.

(f) *Special effective date.* If a foreign tax redetermination within the meaning of this section occurs after December 31, 1979, and before July 25, 1988, and the taxpayer has not notified the Service before that date of the redetermination as required under § 1.905-3 as it appeared in the CFR dated April 1, 1988, then the taxpayer shall have 180 days after the publication of an Announcement in the Internal Revenue Bulletin notifying taxpayers of the availability of the Forms and instructions to comply with the provisions of this section. Failure to comply with the provisions of this section shall subject the taxpayer to the penalty provisions of section 6689 and the regulations thereunder. In no case, however, shall this paragraph operate to extend the statute of limitations provided by section 6511(d)(3)(A).

[T.D. 8210, 53 FR 23618, June 23, 1988]

§ 1.907-0 Outline of regulation provisions for section 907.

This section lists the paragraphs contained in §§ 1.907(a)-0 through 1.907(f)-1.

§ 1.907(a)-0 Introduction (for taxable years beginning after December 31, 1982).

- (a) Effective dates.
- (b) Key terms.

§ 1.907-0**26 CFR Ch. I (4-1-04 Edition)**

- (c) FOGEI tax limitation.
- (d) Reduction of creditable FORI taxes.
- (e) FOGEI and FORI.
- (f) Posted prices.
- (g) Transitional rules.
- (h) Section 907(f) carrybacks and carryovers.
- (i) Statutes covered.

§ 1.907(a)-1 Reduction in taxes paid on FOGEI (for taxable years beginning after December 31, 1982).

- (a) Amount of reduction.
- (b) Foreign taxes paid or accrued.
 - (1) Foreign taxes.
 - (2) Foreign taxes paid or accrued.
- (c) Limitation level.
 - (1) In general.
 - (2) Limitation percentage of corporations.
 - (3) Limitation percentage of individuals.
- (4) Losses.
- (5) Priority.
- (d) Illustrations.
- (e) Effect on other provisions.
 - (1) Deduction denied.
 - (2) Reduction inapplicable.
 - (3) Section 78 dividend.
 - (f) Section 904 limitation.

§ 1.907(b)-1 Reduction of creditable FORI taxes (for taxable years beginning after December 31, 1982).

§ 1.907(c)-1 Definitions relating to FOGEI and FORI (for taxable years beginning after December 31, 1982).

- (a) Scope.
- (b) FOGEI.
 - (1) General rule.
 - (2) Amount.
 - (3) Other circumstances.
 - (4) Income directly related to extraction.
 - (5) Income not included.
 - (6) Fair market value.
 - (7) Economic interest.
 - (c) Carryover of foreign oil extraction losses.
 - (1) In general.
 - (2) Reduction.
 - (3) Foreign oil extraction loss defined.
 - (4) Affiliated groups.
 - (5) FOGEI taxes.
 - (6) Examples.
 - (d) FORI.
 - (1) In general.
 - (2) Transportation.
 - (3) Distribution or sale.
 - (4) Processing.
 - (5) Primary product from oil.
 - (6) Primary product from gas.
 - (7) Directly related income.
 - (e) Assets used in a trade or business.
 - (1) In general.
 - (2) Section 907(c) activities.
 - (3) Stock.
 - (4) Losses on sale of stock.

- (5) Character of gain or loss.
- (6) Allocation of amount realized.
- (7) Interest.
- (f) Terms and items common to FORI and FOGEI.

- (1) Minerals
- (2) Taxable income.
- (3) Interest on working capital.
- (4) Exchange gain or loss.
- (5) Allocation.
- (6) Facts and circumstances.
- (g) Directly related income.
 - (1) In general.
 - (2) Directly related services.
 - (3) Leases and licenses.
 - (4) Related person.
 - (5) Gross income.
 - (h) Coordination with other provisions.
 - (1) Certain adjustments.
 - (2) Section 901(f).

§ 1.907(c)-2 Section 907(c)(3) items (for taxable years beginning after December 31, 1982).

- (a) Scope.
- (b) Dividend.
 - (1) Section 1248.
 - (2) Section 78 dividend.
 - (c) Taxes deemed paid.
 - (1) Voting stock test.
 - (2) Dividends and interest.
 - (3) Amounts included under section 951(a).
 - (d) Amount attributable to certain items.
 - (1) Certain dividends.
 - (2) Interest received from certain foreign corporations.
 - (3) Dividends from domestic corporation.
 - (4) Amounts with respect to which taxes are deemed paid under section 960(a).
 - (5) Section 78 dividend.
 - (6) Special rule.
 - (7) Deficits.
 - (8) Illustrations.
 - (e) Dividends, interest, and other amounts from sources within a possession.
 - (f) Income from partnerships, trusts, etc.

§ 1.907(c)-3 FOGEI and FORI taxes (for taxable years beginning after December 31, 1982).

- (a) Tax characterization, allocation and apportionment.
 - (1) Scope.
 - (2) Three classes of income.
 - (3) More than one class in a foreign tax base.
 - (4) Allocation of tax within a base.
 - (5) Modified gross income.
 - (6) Allocation of tax credits.
 - (7) Withholding taxes.
 - (b) Dividends.
 - (1) In general.
 - (2) Section 78 dividend.
 - (c) Includable amounts under section 951(a).
 - (d) Partnerships.
 - (e) Illustrations.

Internal Revenue Service, Treasury

§ 1.907(a)-0

§ 1.907(d)-1 Disregard of posted prices for purposes of chapter 1 of the Code (for taxable years beginning after December 31, 1982).

- (a) In general.
 - (1) Scope.
 - (2) Initial computation requirement.
 - (3) Burden of proof.
 - (4) Related parties.
- (b) Adjustments.
- (c) Definitions.
 - (1) Foreign government.
 - (2) Minerals.
 - (3) Posted price.
 - (4) Other pricing arrangement.
 - (5) Fair market value.

§ 1.907(f)-1 Carryback and carryover of credits disallowed by section 907(a) (for amounts carried between taxable years that each begin after December 31, 1982).

- (a) In general.
- (b) Unused FOGEI.
 - (1) In general.
 - (2) Year of origin.
 - (c) Tax deemed paid or accrued.
 - (d) Excess extraction limitation.
 - (e) Excess general section 904 limitation.
 - (f) Section 907(f) priority.
 - (g) Cross-reference.
 - (h) Example.

[T.D. 8338, 56 FR 11063, Mar. 15, 1991; 56 FR 21926, May 13, 1991; T.D. 8655, 61 FR 516, Jan. 8, 1996]

§ 1.907(a)-0 Introduction (for taxable years beginning after December 31, 1982).

(a) *Effective dates.* The provisions of §§ 1.907(a)-0 through 1.907(f)-1 apply to taxable years beginning after December 31, 1982. For provisions that apply to taxable years beginning before January 1, 1983, see §§ 1.907(a)-0A through 1.907(f)-1A.

(b) *Key terms.* For purposes of the regulations under section 907—

(1) *FOGEI* means foreign oil and gas extraction income.

(2) *FORI* means foreign oil related income.

(3) *FOGEI taxes* mean foreign oil and gas extraction taxes as defined in section 907(c)(5).

(4) *FORI taxes* means foreign taxes on foreign oil related income. See § 1.907(c)-3.

(c) *FOGEI tax limitation.* Section 907(a) limits the foreign tax credit for taxes paid or accrued on FOGEI. See § 1.907(a)-1.

(d) *Reduction of creditable FORI taxes.* Section 907(b) recharacterizes FORI

taxes as non-creditable deductible expenses to the extent that the foreign law imposing the FORI taxes is structured, or in fact operates, so that the amount of tax imposed with respect to FORI will be materially greater, over a reasonable period of time, than the amount generally imposed on income that is neither FOGEI nor FORI. See § 1.907(b)-1.

(e) *FOGEI and FORI.* FOGEI includes the taxable income from the extraction of minerals from oil or gas wells by a taxpayer (or another person) and from the sale or exchange of assets used in the extraction business. FORI includes taxable income from the activities of processing oil and gas into their primary products, transporting or distributing oil and gas and their primary products, and from the disposition of assets used in these activities. For this purpose, a disposition includes only a sale or exchange. FOGEI and FORI may also include taxable income from the performance of related services or from the lease of related property and certain dividends, interest, or amounts described in section 951(a). See §§ 1.907(c)-1 through 1.907(c)-3.

(f) *Posted prices.* Certain sales prices are disregarded when computing FOGEI for purposes of chapter 1 of the Code. See § 1.907(d)-1.

(g) *Transitional rules.* Section 907(e) provides rules for the carryover of unused FOGEI taxes from taxable years beginning before January 1, 1983, and carryback of FOGEI taxes arising in taxable years beginning after December 31, 1982. See § 1.907(e)-1.

(h) *Section 907(f) carrybacks and carryovers.* FOGEI taxes disallowed under section 907(a) may be carried back or forward to other taxable years. These FOGEI taxes may be absorbed in another taxable year to the extent of the lesser of the separate excess extraction limitation or the excess limitation in the general limitation category (section 904(d)(1)(I)) for the carryback or carryover year. See § 1.907(f)-1.

(i) *Statutes covered.* The regulations under section 907 are issued as a result of the enactment of section 601 of the Tax Reduction Act of 1975, of section 1035 of the Tax Reform Act of 1976, of section 301(b)(14) of the Revenue Act of 1978, of section 211 of the Tax Equity